

# 1999 REPORT OF THE DIVISION OF STATE COURT ADMINISTRATION

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**LILIA JUDSON, EXECUTIVE DIRECTOR**

## Introduction

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The Division of State Court Administration is a statutory office created to assist the Indiana Supreme Court in the administration and management of Indiana's judicial system. The Division staff serves under the direct authority of the Chief Justice. The Chief Justice, the Indiana Supreme Court and the General Assembly assign duties to the Division. Following are some of the responsibilities and accomplishments of the Division during 1999.

## Statistics

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Pursuant to Indiana Code 33-2.1-7-3 and Indiana Supreme Court Administrative Rules 1 and 2, the Division collects and publishes information on the caseload and fiscal activities of all courts and probation offices throughout the state. The data is published annually in two reports, The Indiana Judicial Service Report and The Indiana Probation Report. Excerpts are also published to the Division's Internet website at <http://www.state.in.us/judiciary/admin>. This data provides the empirical information for policy decisions by the Indiana Supreme Court and the Indiana General Assembly.

## Legal Responsibilities

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The Division legal staff serves as counsel to the Supreme Court in all matters involving attorney discipline and all requests for the appointment of special judges, special masters, and senior judges. In 1999, Division legal staff assisted the Supreme Court in disposing of seventy-three (73) disciplinary matters and two (2) contempt matters. Per Curiam opinions were issued in thirty (30) disciplinary cases and in two (2) contempt matters. As part of this disciplinary function, Division staff conducts preliminary investigations of disciplinary grievances filed against members and staff of the Indiana Supreme Court

Disciplinary Commission, as well as requests for review of decisions by the Disciplinary Commission and the Indiana Commission on Judicial Qualifications.

Supreme Court rules governing the method of special judge selection call for the establishment of local rules for such selection and certification to the Supreme Court in certain unusual circumstances. The Division maintains and monitors all local rules establishing plans for special judge selection, and reviews and processes requests for the appointment of special judges by the Supreme Court. In 1999, 136 new requests for special judge appointments were reviewed.

The managerial and administrative responsibilities of trial judges are affected by a growing number of federal and state laws, rules and regulations. Since 1996, Division legal staff has provided assistance and advice to trial judges on employment related issues. Additionally, staff has provided training both on regional and local levels on issues such as sexual harassment sensitivity awareness, the Americans with Disabilities Act, the Family and Medical Leave Act, the Fair Labor Standards Act, effectively disciplining and terminating problem employees, and drug testing.

## Rule Amendments and the Supreme Court Committee on Rules of Practice and Procedure

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The Executive Director of the Division serves as Executive Secretary of the Indiana Supreme Court Committee on Rules of Practice and Procedure and assists the Committee and the Supreme Court in drafting and promulgating amendments to the Indiana Rules of Court. A complete rewriting of the Indiana Rules of Appellate Procedure was the most notable rules project in 1999. The new Appellate Rules will become effective January 1, 2001. In

addition, the Admission and Discipline Rules, Administrative Rules, Rules of Criminal Procedure, Rules of Procedure for Post-Conviction Remedies, and Rules of Trial Procedure were amended. New rule amendments are now deployed on the Internet through the Supreme Court's webpage.

### **Judicial Qualifications/ Nominating Commission**

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Pursuant to Indiana Code 33-2.1-7-3(a)(4), the Division provides legal and administrative staff support to the Indiana Commission on Judicial Qualifications and the Indiana Judicial Nominating Commission. As part of this function, Division staff distributes, collects, and processes all Statements of Economic Interest submitted by judges and prosecuting attorneys.

The Indiana Judicial Nominating Commission and the Indiana Commission on Judicial Qualifications is established by Article VII, Section 9, of the Constitution of Indiana. The Chief Justice of Indiana is the *ex officio* Chairman of the Commission. The Commission solicits and interviews candidates to fill vacancies on the Supreme Court, the Court of Appeals, and the Tax Court. Also, it certifies former judges as Senior Judges enabling them to serve when appointed by the Supreme Court. In its Qualifications function, the Commission investigates allegations of ethical misconduct against Indiana judges, judicial officers, and candidates for judicial office, and, when appropriate, prosecutes misconduct cases which ultimately are resolved by the Supreme Court. Division staff assists the Commission in all these functions and in the issuance of informal or written advisory opinions about judicial ethics.

In 1999, Division staff also assisted the Commission in the review and processing of one hundred ninety-five docketed complaints or allegations of judicial misconduct. One hundred forty-three complaints were summarily dismissed as not raising well-founded issues of ethical misconduct or as outside the Commission's purview. In twenty-one instances, judges received private cautions or directives from the Commission; five of those cases were dismissed without prejudice. In two instances, the Commission and the judges agreed to the issuance by the

Commission of Public Admonitions in lieu of formal disciplinary proceedings.

In 1999 Division staff assisted the Commission in the recruitment, interview and selection of applicants for one vacancy on the Indiana Supreme Court and one on the Indiana Court of Appeals.

### **Senior Judge Program**

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In 1989, the General Assembly enacted legislation allowing the Indiana Supreme Court to utilize the services of former judges who have been certified as Senior Judges by the Indiana Judicial Nominating Commission. The program, small at first, has grown into an invaluable resource of seasoned judicial talent at minimal cost. During 1999, almost 3,400 days of service in trial courts and the Indiana Court of Appeals were logged by senior judges. The number of senior judges statewide is about seventy. The Division administers all aspects of the program, starting with certification by the Nominating Commission, processing of requests for appointments by the Supreme Court, and administration of payroll and benefits for the participants. During 1999, 331 requests for senior judge appointments to specific courts were processed by the Division.

### **Weighted Caseload Measures**

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As a result of a two-year study of Indiana courts conducted by the Judicial Administration Committee of the Indiana Judicial Conference in conjunction with the Division, Indiana developed and implemented a system for measuring caseloads based on relative weighing of case types. Under this process, weights are applied to new cases coming into the system. The weighted caseload information, as well as a relative severity measure, allows the Indiana Supreme Court and the Indiana General Assembly to project and allocate judicial resources needed to handle the incoming caseload.

During 1999, the Indiana Supreme Court asked all trial courts to examine the caseload distribution first, among the courts within each county, and second, among the counties within each judicial district. The Court further asked each county and dis-

strict to develop a local plan for equalizing filing patterns in order to promote a more equal distribution of cases and more equal access to justice. During 1999, Division staff worked closely with the counties and fourteen judicial administrative districts to develop workable plans for caseload reallocation.

Substantive and procedural changes enacted since the initial Weighted Caseload Measures study, such as a community transition program and additional hearings in CHINS cases, have had an impact on the average times originally determined by the study. In light of this, the Division, together with the Judicial Administration Committee of the Indiana Judicial Conference, has initiated an update and revalidation of the weighted caseload system. The update process will be completed in 2001.

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### **Judicial Technology and Automation Committee (J-TAC), Trial Court Technology Initiative, and AIMS.**

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In 1999, the Supreme Court, by rule, established a special committee, chaired by Justice Frank Sullivan, Jr., and staffed by the Division, to guide the Court in developing a long range strategic plan for automating Indiana's judicial system. Division staff obtained a federal grant, which will be directed by J-TAC, to enhance technology and communication among Indiana's trial courts. With the assistance of Division staff, J-TAC undertook the continuation of the AIMS (Automated Case Information Management System) project. The goals of the AIMS project are: (1) the establishment of software standards for case management systems, (2) a vendor certification program, and (3) integration with other systems which would assure communication among courts and agencies and would enhance access to judicial information. Phase III of the AIMS project is now near completion. Also, work is underway to identify approaches for developing a data warehouse of trial court case-level data.

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### **Indiana Conference for Legal Education Opportunity (CLEO)**

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During 1997 the Indiana General Assembly established the nation's first state sponsored Conference for Legal Education Opportunity (CLEO) and direct-

ed that the Division administer the operation under the leadership of the Chief Justice. The goal of this program, which is patterned after the well known national CLEO program, is to increase the number of minority and other disadvantaged students in Indiana's law schools. Indiana CLEO provides an intensive six-week summer institute to prepare the students for the rigors of their law school education. Monetary stipends are awarded to those who successfully complete the institute and pursue a legal education in an Indiana law school. In 1999, the Indiana CLEO program for the first time had a full complement of Fellows. Indiana CLEO initiated a newsletter and regular meetings with the Fellows at the respective law school campuses. The Indiana General Assembly approved increased funding which will allow the program to continue other productive services, such as a summer employment program which matches Indiana legal employers with CLEO Fellows.

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### **Civil Legal Aid Fund**

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Since 1997, the Division has been responsible for administering a state fund for legal assistance to indigent persons in civil cases. In 1999, the Division made two distributions, totaling one million dollars, to eleven organizations providing civil legal aid services to Indiana's poor. Distributions are based upon an analysis of each county's civil caseload, as it relates to the caseload for the entire state, and the number of organizations serving each county. Also, in 1999, as a result of inquiries from the service providers, the Division promulgated an administrative guideline, approved by the Chief Justice, regarding the representation in civil matters of individuals who subsequently become incarcerated for a brief time and for unrelated reasons. The administrative guideline is patterned after a federal guideline applicable to the federal civil legal aid program after which the Indiana Civil Legal Aid statute was modeled. In addition, the Division instituted a data collection system whereby service providers will be collecting and reporting their caseloads in a uniform manner.

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### **Court Improvement Grant**

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The Indiana Supreme Court, through its Court

Improvement Executive Committee and with the benefit of federal funds, continued a Court Improvement Project. The gist of the project is to promote and fund projects focused on improving services in cases involving abused and neglected children. The Division serves as the project director and fiscal administrator. Although the purpose and overall framework of the project are set by the U.S. Department of Health and Human Services and the American Bar Association's Center on Children and the Law, the direction and breadth of issues addressed by the Indiana program have been guided by the Supreme Court and the members of an executive committee. During the initial phase of this multi-phased project, the committee identified several areas of particular concern which were targeted in subsequent phases. In the second phase, eighteen county level programs aimed at expediting CHINS cases were selected for funding. During the 1999 phase, funds were awarded to five county proposals focused on comprehensive improvements for delivery of services in children's cases.

### **Information Management**

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Pursuant to a statutory directive, the Division is to examine the administrative and business methods and systems employed in the offices of the clerks of court and other offices serving the courts and recommend necessary changes. In performing this function, the Division assists Indiana courts and clerks with managing judicial information from its creation, to maintenance, access, and disposal. A core goal is the disposal of nonpermanent records through the use of a records retention schedule promulgated by the Supreme Court. As part of this effort, the equivalent of eighty-four four drawer file cabinets of records were destroyed throughout Indiana's courts in 1999. The Division reviewed microfilming programs in a number of courts. Staff published updated administrative manuals on topics such as microfilming, confidentiality and protective orders. Also a number of standard forms, particularly on protective orders, were defined and deployed on the Internet web site. The staff conducted sixteen on-site visits over nineteen days to assist courts and clerks with their information management duties.

### **Payroll and Claims**

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The Division maintains and administers thirteen accounts, totaling \$61,824,000. Part of this fiscal responsibility is the administration of payroll and benefit program for all state trial court judges, prosecuting attorneys, and other judicial officials paid with state funds. The annual payroll account for this purpose is upwards of \$55,000,000 and covers approximately seven hundred individuals. Also, as part of this "paymaster" function, the Division processes and pays in excess of one thousand claims per year for special and senior judge service.

The Division staff, in conjunction with a committee of the Indiana Judges Association, undertook the development of a Judicial Benefits Manual. The project is in the final stages, and we anticipate that a complete product will be distributed to all judges during the fall meeting of the Indiana Judicial Conference.

### **Indiana Office of GAL/CASA**

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As part of the Division of State Court Administration, the General Assembly established an office of Guardian Ad Litem/Court Appointed Special Advocate. In 1989, the Indiana General Assembly established an Office of Guardian ad Litem and Court Appointed Special Advocate services to be administered through the Division. Through this program, counties are encouraged to provide appropriate GAL/CASA services by receiving matching state funding administered by the Division and disbursed pursuant to a statutory formula. In addition, the state office provides training and support services for local GAL/CASA programs. An advisory commission, which includes program directors and judges appointed by the Indiana Supreme Court, provides guidance. In 1999, seventy-nine counties qualified for and received state GAL/CASA funds. The Advisory Commission, upon the recommendation of staff, re-certified eight local programs through a voluntary process by which local programs are certified to meet certain minimum standards for their operation, recruitment and training of volunteers. Staff participated in training volunteers in four county programs.



In 1999, the state office also sought and secured a grant from the National CASA Association. The grant has enabled the state office to offer additional services to communities that do not yet have active CASA programs, to assist programs that are in existence but may be floundering, and to provide enhanced support services to thriving programs. Funding from the grant has made it possible to publish a quarterly newsletter and conduct quarterly regional training for program directors this past year. On November 13, 1999, the office again sponsored its State Conference which included a keynote speech by Justice Sullivan and a presentation on the federal and state legislative changes in juvenile law. Over two hundred CASA volunteers, local program directors, service providers, board members and local program staff attended.

### **Family Courts Project**

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As part of its 1999/2000 budget request, the Chief Justice sought and received approval of a special fund which would be used by the Division to develop a two-year family court concept in three pilot Indiana counties. Chief Justice Shepard launched the project in September, 1999, and announced the formation of a task force, chaired by the Hon. Margret Robb of the Indiana Court of Appeals. The task force steers the project with the assistance of Division staff and a family law expert. Throughout 1999, Division staff, the consultant and the task force developed an application process, which ultimately resulted in the selection of Johnson, Monroe, and Porter Counties as the Family Court pilot sites. The counties are sharing approximately \$150,000 per year for a two-year grant period that will end December 31, 2001.

The three pilot projects have some similar and some unique features. All will have jurisdiction to hear cases involving abuse and neglect, termination of parental rights, delinquency, paternity, divorce, mental health, guardianship, adoption, protective orders, and some criminal cases relevant to the family situation. However, none of the pilot counties will hear all of the cases filed in these categories. Each pilot county will screen for families involved in multiple court cases and select those families most in need of case and service coordination. The different

family court models include utilization of a family court case manager, linking and transferring all target cases of a household before one judicial officer, coordinating service delivery, sharing information, and monitoring the case to closure. Also, each of the pilot counties has convened a local advisory task force comprised of members of the local family law bar and representative of other entities involved in the processing and outcome of family cases.<sup>1</sup>

### **Public Defender Commission**

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The Division is responsible for providing staff support to the Indiana Public Defender Commission. The Commission sets standards for indigent defense services in capital and non-capital cases and administers a program of reimbursements to qualified counties under IC 33-9-14-4. During 1999, staff met with forty-nine court officials in meetings regarding their participation under the statute. Also in 1999, twenty-three new counties were approved by the Commission to receive reimbursements for non-capital cases under the statute. The increased interest in the program resulted in tripling of the number of counties that have become eligible to receive non-capital reimbursements. At present, thirty-six counties have comprehensive plans approved by the Commission for delivery of indigent services. Currently, over forty percent of the state's population resides in counties eligible to receive reimbursements under the program. The Commission approved reimbursements in eighteen separate death penalty cases, totaling \$512,700. In non-capital cases during 1999, the Commission approved reimbursements totaling \$2,558,921.

### **The Internet and Traditional Publications**

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The Division publishes a newsletter, The Indiana Court Times, which serves as a communication link with the trial courts and their staff. The newsletter is also available on the Division's website. In addition to court opinions, rule amendments, and other information about Indiana's judiciary, downloadable forms, summary statistical reports, and advisory opinions issued by the Indiana Commission on Judicial Qualifications are now available on the website.

## Automation and Technical Services

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The Technical Services section of the Division completed a number of important projects during the reporting year, including conversion of all network PC's from OS2 operating system to Windows NT and conversion to Microsoft Office Suites 2000. As part of the Y2K verification and testing program, Division staff reviewed and tested every custom written application code. As a result, not a single year 2000 failure occurred in the entire organization. Also, during this period of time, staff installed and launched Lotus Notes as the primary mail system for the organization. The staff equipped new laptop computers with remote access for all justices and installed a new dial-up server to support the remote access.

Another significant task was the development and deployment of a Juvenile Residential Facility Database on the Indiana Judicial Website where it is accessible to all judges with Internet access. The Division continues to work with a consultant in developing a Mediator database for use by the Indiana Commission for Continuing Legal Education which is charged with the duty of maintaining a list of available mediators.

## Commission on Race and Gender Fairness

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During 1999, the Indiana Supreme Court amended Administrative Rule 4 to create a Commission on Race and Gender Fairness in Indiana's justice system and directed the Division to serve as staff to the commission. The Commission is charged with investigating and recommending ways to improve race and gender fairness in the courts, the legal system, and state and local governments, as well as among legal service providers and public organizations. The Commission, chaired by former Supreme Court Justice Myra Selby, has twenty-five members representing the Indiana judiciary, the practicing bar, academia, state and local governments, public organizations, law enforcement and corrections.